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15 UNITED STATES DISTRICT COURT
16 DISTRICT OF NEVADA

17 VALLEY HEALTH SYSTEM LLC et al.,)
18 Plaintiffs,)
19 vs.)
20 AETNA HEALTH, INC. et al.,)
21 Defendants.)

No. 2:15-cv-01457-JCM-NJK

**JOINT MOTION AND PROPOSED
ORDER TO AMEND SCHEDULING
ORDER AND DISCOVERY PLAN**

(Fourth Request for Extension)

Trial Date: None set

Pursuant to LR IA 6-1 and LR 26-4, Plaintiffs Valley Health System, LLC and Summerlin Hospital Medical Center, LLC (“Valley Health” or Plaintiffs”) and Defendants Aetna Health, Inc. and Aetna Health Management, LLC (“Aetna” or “Defendants”) (collectively, the “Parties”) jointly move to amend the October 5, 2015 Scheduling Order and Discovery Plan [Doc. 30], as amended on January 29, 2016 [Doc. 37], June 14, 2016 [Doc.40], and September 27, 2016 [Doc. 77] (the “Scheduling Order”), to extend the deadlines in this case as set forth below. This is the fourth motion to extend deadlines.

Valley Health has moved to dismiss the counterclaims and compel arbitration of portions of it [Docs. 55 and 58.]; Aetna has responded to those motions [Docs. 59 and 60.]; and Valley Health replied to those motions. The full scope of the claims and defenses at issue in this case remains to be determined. Valley Health has also moved to compel further document production from Aetna [Doc. 69]. The Parties are waiting for rulings from the Court on these pending motions that will impact the discovery left to be completed by the Parties.

A. Discovery Completed and Remaining to Be Completed

The Parties have exchanged extensive discovery but the scope of material involved with the original lawsuit continues to require more work to compile and produce. This is not including any discovery that would be required for Aetna’s counterclaims or follow-up discovery related to Valley’s Health’s pending motion to compel. So even if the counterclaims do not proceed, the Parties’ experience with the materials produced so far supports that they need more time to complete discovery.

1. Written Discovery

As the Parties have previously noted, this is a document-intensive case involving voluminous sets of data and records relating to about 4,500 bills that Valley Health’s hospitals submitted to Aetna. To date, Aetna has produced approximately **392,044** pages of documents responsive to Valley Health’s requests for production and Valley Health has produced approximately **281,049** pages of documents responsive to Aetna’s requests for production. Aetna and Valley Health also recently served additional follow-up document requests on each other. Nevertheless, with the exception of documents subject to Valley Health’s pending

1 motion to compel [Doc. 69], and subject to ongoing meet-and-confer discussions regarding
 2 certain categories of documents, the Parties presently anticipate completing their respective,
 3 rolling document productions by November 30, 2016.

4 **2. Depositions**

5 The Parties also have scheduled eleven depositions starting in mid-October 2016
 6 through mid-December. To date, the Parties have conducted four depositions with the
 7 remaining seven to take place in November through mid-December. Several of the depositions
 8 will require travel to Connecticut and California given where the witnesses reside. The
 9 upcoming depositions have been scheduled as follows pending the Court's order: November 16
 10 (Valley Health's witness/Las Vegas); November 17 (Valley Health's witness/Las Vegas);
 11 November 18 (Valley Health's witness/Las Vegas); November 21 (Valley Health's witness/Las
 12 Vegas); December 7 (Valley Health's witness/Orange County, California); December 14
 13 (Aetna's witness/Hartford, CT); December 15 (Aetna's witness/Hartford, CT); and December
 14 16 (Aetna's witness/Hartford, CT).¹

15 **3. Reasons Why Current Deadlines Cannot Be Satisfied**

16 As described above, this case involves hundreds of thousands of documents that have
 17 already been produced relating to approximately 4,500 bills, and the Parties are continuing to
 18 produce documents on a rolling basis. Valley Health asserts money owed of over \$30 million
 19 in underpaid bills.

20 Despite the Parties' best, good-faith efforts, including numerous calls among counsel to
 21 meet and confer regarding document production and to coordinate schedules for depositions,
 22 the Parties will be unable to complete their production of documents and depositions in advance
 23 of the current discovery cutoff of December 9, 2016. Due to the schedules of witnesses and
 24 counsel, as well as the need to substantially complete document production in advance of
 25 depositions, the Parties' current deposition schedule anticipates depositions through at least

26 ¹ The depositions scheduled for December 14, 15, and 16 were scheduled for November
 27 8, 9, and 10. However, due to unforeseen scheduling issues, the earliest mutually available
 28 dates for counsel and the witnesses to reschedule these depositions are December 14, 15, and
 16, 2016.

December 16, 2016, with the possibility that additional deponents and documents may be identified as discovery progresses.

B. Expert Disclosures and Depositions

Valley Health served its initial expert disclosures on August 18, 2016, and Aetna served its initial rebuttal expert disclosures on September 16. A dispute has arisen concerning the expert disclosures, wherein Valley Health disputes Aetna's characterization of its September 16 disclosure as being proper rebuttal. Aetna believes that its expert report appropriately provides only rebuttal opinions, responsive to the opinions expressed by Valley Health's expert. The parties have met and conferred regarding Valley Health's intended motion to strike Aetna's "rebuttal" expert disclosure. The parties anticipate that additional modifications to expert witness deadlines may be warranted depending on the outcome of the anticipated motion to strike and fact information uncovered at fact witness depositions.

Finally, because there is no trial currently set in this case, the brief extension of the discovery cutoff will have no impact on any other deadlines currently established by the Court, nor will it delay the trial of this matter. As previously noted, because of trials the Parties' counsel have in other matters, and because of the anticipated amount of time needed for trial in this case, it does not appear that the Parties are jointly available to proceed with trial until at least July 2017.

For the foregoing reasons, the Parties submit that good cause exists for the extension of the deadlines in the Scheduling Order and respectfully request the dates be revised as follows:

- | | | |
|----|---|--------------------------|
| A. | Close of fact discovery: | <u>January 20, 2017</u> |
| B. | Final date to file dispositive motions: | <u>February 21, 2017</u> |
| C. | Joint Proposed Pretrial Order: | <u>March 23, 2017</u> |

1 **IT IS SO STIPULATED.**

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3 DATED this 1st day of November, 2016.

4
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25 **IT IS SO ORDERED.** 

26 UNITED STATES MAGISTRATE JUDGE

27 DATED: November 1, 2016